OP-ED REWRITE
FDA MISSION
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No one -- not even the tobacco companies -- disagrees when it comes to the issue of teenage smoking. Simply put, the decision to smoke is a decision to be made by adults, not by teenagers.

But putting the Food and Drug Administration in charge of youth smoking, as proposed by the Clinton Administration, would be a serious mistake.

There is widespread, bipartisan agreement that the FDA has been neglecting its vital missions, such as timely approval of new drugs and medical devices, and inspecting food processing plants here and abroad. Congressional hearings last year focused on the need for FDA reform.

Not only is the FDA endangering lives by failing to timely approve new products as quickly as possible, evidence is mounting that medical device manufacturers and biotechnology companies are moving their operations overseas to avoid overly-burdensome FDA regulation. That means that good jobs are being exported.

FDA Commissioner David Kessler needs to put his house in order, focusing his efforts on speeding the review process for breakthrough drugs and technology that can save lives.

Instead, he is so obsessed with expanding FDA's jurisdiction to tobacco products -- in clear defiance of 50 years of legal precedent in order to reduce youth smoking -- a goal shared by all America and the five major U.S. tobacco companies.

Commissioner Kessler defends his focus on tobacco as necessary. But the FDA is not empowered to address every public health problem.

Congress has repeatedly reserved to itself policy making powers regarding tobacco. Congress has specifically chosen to exclude the FDA from the regulation of tobacco, a matter which affects not only public health issues, but the personal choices of millions of American adults. Over the post 80 years, Congress has considered whether to grant that authority over tobacco to the FDA several times. Each time, it has refused to do so.

In 1992, Congress passed amendments to the Public Health Service Act which placed responsibility for solving the youth smoking issue where it belongs -- in the 50 states where the sale of tobacco to minors is already illegal.

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It took the Department of Health and Human Services nearly four years to promulgate the rules and regulations necessary for states to comply with this important legislation that will have an impact on youth smoking.

It was by design that Congress has specifically reserved for itself the power to regulate tobacco, and previous FDA commissioners and the courts consistently have upheld this congressional intent. The reason is simple: the FDA's job is to approve products that are safe and effective for an intended use. Tobacco products do not fit into this category.

In 1994, Commissioner Kessler asked Congress to provide the FDA with a "clear direction" on how he should proceed with regard to tobacco. Without waiting for Congress, he then pushed ahead with plans to regulate tobacco, embroiling his agency in public controversy and costly litigation.

Everyone is concerned that kids are smoking. But if the Administration is serious about combating this problem, it should strengthen federal support for states as they improve their enforcement of minimum age laws.

The Administration and Commissioner Kessler have proven that they are more interested in grabbing headlines and playing politics than in crafting sensible public policy to combat youth smoking.

Instead of wasting federal dollars creating new programs, we should continue to focus on helping states enforce the minimum age laws already on their books and leave the FDA to its important public mission, a mission that doesn't include regulation of tobacco.

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